



San Diego City Attorney MICHAEL J. AGUIRRE

NEWS RELEASE

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MAYOR'S OFFICE ADMITS CURRENT EMPLOYEE PENSION SYSTEM CANNOT BE SUSTAINED BUT PROPOSED SOLUTION DOES LITTLE TO REMEDY MASSIVE LIABILITY

San Diego, CA—The good news is that Mayor Sanders now agrees with the City Attorney that the City's current employee pension plan cannot be sustained. But according to City Attorney Michael Aguirre the bad news is that the Mayor's new pension plan doesn't address the existing pension liability estimated to be \$1.2 billion. The Mayor's plan, instead, seeks only to reduce pension benefits for new City employees hired after January 1, 2009. His plan also exempts public safety employees from the reduced benefits.

"I respect the Mayor but, unfortunately, his pension fix doesn't deal with the massive financial liability of the current pension plan which is draining millions of dollars from vital neighborhood needs such as street repairs, fire prevention, and water and sewer services" said City Attorney Michael Aguirre. "In addition, he exempts public safety employees whose pensions currently average \$900,000."

The \$1.2 billion deficit in the City pension system was caused by misconduct on the part of elected officials and union bosses who brokered deals in 1996 and 2002, which allowed the City to under fund the pension system in exchange for increased employee pension benefits.

That finding of misconduct was also made in 2006 by the U.S. Securities and Exchange Commission in their fraud investigation which reprimanded the City for not disclosing to investors the massive, intentional underfunding of its employee pension and health care plans in connection with the offer and sale in 2002 and 2003 of over \$260 million in five separate municipal bond offerings.

The Mayor's pension plan fails to address the following ten violations of law that need to be corrected to save the City's troubled employee pension plan:

1. Employees are permitted to receive both their salary and pension benefits for five years after retirement age, even though it is not cost-neutral as required by law.
Solution: Obey the law. Require program to be operated at cost-neutrality.
2. Employees were allowed to buy pension years below cost rather than work for pension years. The law requires employees to pay the full cost for pension years they bought.
Solution: Obey the law. Reduce pension years purchased to actual value.

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3. Employees are allowed to use pension years they bought to satisfy the rule that requires 10 years of actual service to the City to get a pension.
Solution: Obey the law. Require employees to work 10 years as mandated by the City Charter.
4. Elected officials are permitted to buy more pension credits than permitted under term limit law.
Solution: Obey the law. Immediately rescind the pension years bought by elected officials.
5. Employees can use pension years they purchased to retire at age 55 rather than 62.
Solution: Obey the law. Require employees to work 20 years in order to retire at age 55 as mandated by the City Charter.
6. Employees who act as their union's presidents are able to combine their union salary with their City salary, and factor in their years of union service to increase their retirement benefits in violation of the Internal Revenue Code.
Solution: Obey the law. Pay retirement benefits based only on an employee's City salary and years of service.
7. Firefighters are allowed to covert their unused vacation time to pension service credits to increase their pension benefits in violation of the Internal Revenue Code.
Solution: Obey the law. Use only an employee's actual service time and cost-neutral purchased service credits to determine their pension benefits.
8. The City is using a 20-year or longer period to amortize the pension debt.
Solution: Obey the law. Enforce the City Charter section requiring pension debt to be paid off in 15 years.
9. Retirement System is paying benefits above IRS limits.
Solution: Obey the law. Require Vote of the People before paying benefits above IRS limits.
10. Retirement System using outside attorney as General Counsel.
Solution: Obey the law. Elected City Attorney is the Chief Legal Advisor to the San Diego City Employees' Retirement System as mandated by the City Charter.

For more information about the City's employees' pension system, visit www.sandiegocityattorney.org, click "City Attorney Interim Investigative Reports."

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